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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/558,095	04/25/2000	Simon Antony James Holdsworth	GB990104US1	9369

25259 7590 06/25/2004

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EXAMINER

TODD, GREGORY G

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 06/25/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/558,095

Applicant(s)

HOLDSWORTH ET AL.

Examiner

Gregory G Todd

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

This is a fourth office action in response to applicant's amendment and request for continued examination filed, 29 March 2004, of application filed, with the above serial number, on 25 April 2000 in which claims 9 and 11 have been amended. Claims 9-12 are therefore pending in the application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
2. Claim 9 recites the limitation "the unique series of data processing nodes" in line 25. There is insufficient antecedent basis for this limitation in the claim.

Specification

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not disclose a different publication point data processing node being selected on different occasions.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 9-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ogawa et al (hereinafter "Ogawa", 5,608,874).

6. As per Claim 9 and 12, Ogawa discloses a method and computer program product for publishing a data message from a publisher application to a subscriber application via a broker, wherein the broker acts as an intermediary between the publisher application and the subscriber application, thus making it unnecessary for the publisher application and the subscriber application to know any details about each other, wherein Ogawa discloses:

selecting a specific publication point data processing node of the broker from amongst a plurality of such publication point data processing nodes, such that a different publication point data processing node is selected on different occasions, a publication point data processing node being an entry point data processing node of the broker, such entry point node being followed by a series of other data processing nodes where each node in the series carries out a specific data processing operation on the data message, where each publication point data processing node of said plurality of publication point data processing nodes is followed by a series of data processing nodes unique to the respective publication point data processing node (provider node sending to main processing section ComServer Host for translation and transmission to subscriber) (at least col. 8 line 51 - col. 10 line 42); and

communicating with the broker via the selected publication point data processing node, in order to publish the data message via the broker, with the broker carrying out

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the data processing operation corresponding to the series of data processing nodes unique to the selected publication point data processing node (data being sent from provider to subscriber via ComServer and PrepServer) (at least col. 10, lines 14-42).

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 9 and 12 are rejected under 35 U.S.C. 102(e) as being anticipated by McLaughlin et al (hereinafter "McLaughlin", 6,405,266).

McLaughlin teaches the invention as claimed including a system and method for processing messages between a publisher and a subscriber according to each individual publisher (see abstract).

9. As per Claim 9 and 12, McLaughlin discloses a method and computer program product (CDA app) for publishing a data message from a publisher application to a subscriber application via a broker, wherein the broker acts as an intermediary between the publisher application and the subscriber application, thus making it unnecessary for the publisher application and the subscriber application to know any details about each other, wherein McLaughlin discloses:

selecting a specific publication point data processing node of the broker from amongst a plurality of such publication point data processing nodes, such that a different publication point data processing node is selected on different occasions, a publication point data processing node being an entry point data processing node of the broker, such entry point node being followed by a series of other data processing nodes where each node in the series carries out a specific data processing operation on the data message, where each publication point data processing node of said plurality of publication point data processing nodes is followed by a series of data processing nodes unique to the respective publication point data processing node (publisher node being subscribed to specific data from a publisher controller via series of processor controllers) (at least col. 6 line 47 - col. 7 line 26; Fig. 1); and

communicating with the broker via the selected publication point data processing node, in order to publish the data message via the broker, with the broker carrying out the data processing operation corresponding to the unique series of data processing nodes unique to the selected publication point data processing node (data being sent from publisher to subscriber) (at least col. 6, lines 47-65).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over McLaughlin in view of Ogawa.

12. As per Claim 10.

McLaughlin discloses a second and all processing nodes not being followed by a message transformation node but does **not** disclose a first publication point data processing node being followed by a message transformation node. However, the use and advantages for using such processing is well known to one skilled in the art at the time the invention was made as evidenced by the teachings of Ogawa (at least col. 8 line 51 - col. 10 line 42). Ogawa clearly discloses ComServer acting between a provider and subscriber for translation or transformation of data for the subscriber. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the use of Ogawa's broker conversion system onto McLaughlin's publish/subscribe system because this would allow the subscriber to get the data they are subscribing to in a format they can understand and allow different and foreign publishers to have a wider subscriber base depending on subscriber preferences.

13. As per Claim 11.

McLaughlin clearly discloses choosing a publication controller or node depending on the specific data that the subscriber desires, and thus in view of Hamlin, whether the data is to be transformed or converted and subscribing to that node accordingly (at least col. 6, lines 47-65).

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14. Applicant's arguments filed 29 March 2004 have been fully considered but they are not persuasive. Applicants argue, substantially, that a) McLaughlin uses a different architecture; b) McLaughlin does not disclose a data transformation node; c) the CDA layer of McLaughlin does not suffice to be a broker; d) McLaughlin fails to teach a plurality of publication point data processing nodes, such that different processing is done on different occasions.

15. In response to applicant's arguments a), the recitation of the structure of the broker and publisher and subscriber applications, and knowledge of one another has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

16. In response to b); McLaughlin is not relied on as disclosing any data transformation, as only claims 10 and 11 disclose message transformation, wherein Hamlin is relied on as disclosing message transformation.

17. In response to c); Similarly to a), the claim language does not declare the "broker" as being a separate entity, but rather as an intermediary between the subscriber and publisher, where McLaughlin's CDA service performs such processing before reaching the subscriber.

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18. In response to d); McLaughlin discloses subscribers subscribing to more than one and multiple publishing nodes, (at least Fig. 3) at the same time and on multiple occasions. Applicant is asked, respectfully, to disclose where in the specification a different publication point data processing node is being selected on different occasions, as the amended claim language appears to try and only circumvent McLaughlin.

19. Applicant's arguments with respect to claims 10 and 11 in view of Hamlin have been considered but are moot in view of the new ground(s) of rejection un Ogawa.

Conclusion

20. Newly cited Navarre et al in addition to previously cited Trenbeath et al, Schultz et al, Bracho et al, Bamforth et al, Bass et al ('266), Bolam et al, Bass et al ('956), Bhatt et al, and Holland are cited for disclosing pertinent information related to the claimed invention. Applicants are requested to consider the prior art reference for relevant teachings when responding to this office action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory G Todd whose telephone number is (703)305-5343. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Gregory Todd



Patent Examiner

Technology Center 2100



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